

## Message Text

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ACTION EB-07

INFO OCT-01 EA-07 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOTe-00 INR-07 NSAE-00 CIEP-01 FAA-00 L-03 /028 W

----- 096486

R 230523Z AUG 76

FM AMEMBASSY WELLINGTON

TO SECSTATE WASHDC 1886

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E.O. 11652: N/A

TAGS: EAIR, NZ

SUBJ: CIVAIR: GNZ-PAN AM FARE CONTROVERSY

REF: (A) STATE 149618,(B) WELLINGTON 2332, (C) STATE 158327,  
(D) STATE 205115

1. A LETTER INCORPORATING THE LANGUAGE CONTAINED IN  
REFTELS A AND C WAS HAND DELIVERED BY THE ECON/COM COUNSELOR  
TO THE OFFICE OF THE SECRETARY FOR TRANSPORT ON JUNE 28.

2. SINCE THEN THE ECON/COM COUNSELOR RAISED THE QUESTION  
OF A REPLY ON THREE SEPARATE OCCASIONS. IN EARLY AUGUST AFTER  
ACKNOWLEDGING THAT THE REPLY WAS WELL OVER DUE, THE DEPUTY  
CONTROLLER OF AIR SERVICES POLICY, MR. J. KENNEDY-GOOD EXPLAINED  
THAT THE CIVIL AVIATION DIVISION WAS PREPARING SOME PAPERS FOR  
US CAB WHICH THEY WANTED TO SEND TO THE CAB BEFORE THE REPLY  
WAS MADE TO OUR LETTER.

3. LATE ON AUGUST 20 THE REPLY WAS DELIVERED TO THE E/C  
COUNSELOR. THE TEXT OF THE LETTER FOLLOWS:

THANK YOU FOR YOUR LETTER OF 28 JUNE 1976 CONCERNING  
THE APPLICATION OF THE ROUND TRIP EXCURSION FARE  
TO LONDON.

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I QUITE AGREE THAT IN FEBRUARY LAST CERTAIN

UNDERSTANDINGS WERE REACHED BETWEEN OURSELVES AND MR. CARLSON OF PAN AM TO EXAMINE A COURSE OF ACTION BASED ON PAN AM'S EXISTING SERVICE AND SCHEDULES. IT WAS CLEARLY UNDERSTOOD THAT THIS APPRAISAL WOULD BE DEPENDENT UPON OBTAINING BRITISH APPROVAL.

YOU WILL RECALL THAT AT THAT TIME PAN AM'S SCHEDULES DID NOT PERMIT THEM ACCESS TO THE NEW ZEALAND - UNITED KINGDOM EXCURSION FARES ON A THROUGH FLIGHT BASIS, WITH THE EXCEPTION OF ONE WEEKLY SERVICE. OUR REQUEST TO THE UNITED KINGDOM AUTHORITIES WAS BASED UPON CIRCUMSTANCES THEN PREVAILING, WHICH AS YOU KNOW HAVE CHANGED CONSIDERABLY. IN MAY 1976 PAN AM WITHDREW ITS B 707 SERVICES AND INTRODUCED THREE B 747 SERVICES TO NEW ZEALAND WITH A CHANGE IN ROUTE PATTERN. WHEREAS, PRIOR TO THE END OF MAY PAN AM'S ACCESS TO THE NEW ZEALAND - UNITED KINGDOM MARKET AMOUNTED TO SOME 130 SEATS EACH WAY, AFTER THAT DATE PAN AM HAD SOME 740 SEATS EACH WAY AVAILABLE TO SERVE THIS MARKET OVER THE ENTIRE ROUTE NOT JUST TO THE WEST PACIFIC SEABOARD AS IS THE C.3 WITH AIR NEW ZEALAND. THESE FIGURES EXCLUDE ACCESS OVER HONG KONG WHICH PAN AM ALSO OBTAINED. MOREOVER PAN AM HAS SOUGHT AND OBTAINED PERMISSION TO APPLY THE SAME FARE AND CONDITIONS TO OTHER DESTINATIONS.

THE CHANGES AND DEVELOPMENTS I HAVE JUST OUTLINED MAKE A RENEWED APPROACH TO THE UNITED KINGDOM AUTHORITIES, TO SEEK A DISPENSATION ON BEHALF OF PAN AM EVEN MORE DIFFICULT THAN IT WAS SEVEN MONTHS AGO. IT IS NOT POSSIBLE TO DISTINGUISH OR IDENTIFY ANY PARTICULAR PENALTY APPLICABLE TO PAN AM WHICH DIFFERS IN ANY WAY FROM THE POSITION OCCUPIED BY SCHEDULED CARRIERS SERVING NEW ZEALAND TO WHOM THE TRAFFIC IS ALSO SIXTH FREEDOM.

YOUR LETTER APPEARS TO ARGUE THAT PAN AM HAS AN ABSOLUTE RIGHT TO EQUAL PARTICIPATION WITH AIR NEW ZEALAND IN TRAFFIC WHICH IS NEW ZEALAND'S THIRD AND FOURTH FREEDOM, BUT AMERICAN SIXTH FREEDOM AND THAT IT IS INCUMBENT UPON NEW ZEALAND TO COMPEL OTHER COUNTRIES TO ACCEPT THIS DOCTRINE. IF WE ACCEPTED THE LOGIC OF THIS ARGUMENT WE COULD BE PERSUADED LIMITED OFFICIAL USE

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THAT A PARALLEL WOULD BE FOR US TO INSIST THAT YOU ARRANGE WITH AUSTRALIA FOR AIR NEW ZEALAND TO HAVE AS FULL AN "ENTITLEMENT" TO AUSTRALIA - UNITED STATES TRAFFIC AS HAVE THE AUSTRALIAN AND AMERICAN CARRIERS. I DOUBT WHETHER WE WOULD EVER THINK OF PROPOSING THIS TO YOUR GOVERNMENT BECAUSE SUCH A REQUEST, IN MY VIEW, RUNS COUNTER TO THE BERMUDA PHILOSOPHY UPON WHICH OUR FORMAL RELATIONS ARE FIRMLY BASED.

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R 230523Z AUG 76

FM AMEMBASSY WELLINGTON

TO SECSTATE WASHDC 1887

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OUR AIR TRANSPORT AGREEMENT REQUIRES THE SERVICES OF EACH COUNTRY'S CARRIER TO BE PRIMARILY JUSTIFIED BY ITS THIRD AND FOURTH FREEDOM TRAFFIC, AND REQUIRES THAT FIFTH (AND SIXTH) FREEDOM TRAFFIC SHOULD BE SUPPLEMENTARY. AIR NEW ZEALAND'S SERVICES TO AND FROM THE UNITED STATES ARE FIRMLY BASED ON NEW ZEALAND THIRD AND FOURTH FREEDOM TRAFFIC AND EVIDENCE OF THIS HAS BEEN SUBMITTED RECENTLY TO THE CAB. THE UNITED STATES AUTHORITIES HAVE MORE THAN ONCE EMPHASIZED THE NEED FOR AIR NEW ZEALAND TO JUSTIFY ITS SERVICES TO THE UNITED STATES ON THE BASIS OF ITS THIRD AND FOURTH FREEDOM CARRIAGE AND THIS POINT HAS BEEN EMPHASIZED BY RESTRICTIONS PLACED ON AIR NEW ZEALAND IN ADVERTISING IN AUSTRALIA OF SERVICES LINKING THAT COUNTRY WITH THE UNITED STATES THROUGH A NEW ZEALAND POINT. IN SPITE OF ALL THIS WE HAVE TAKEN TROUBLE TO PROVIDE ACCESS TO LOW FARE TRAFFIC TO LONDON AND EUROPE FOR UNITED STATES CARRIERS EVEN THOUGH IT IS NEW ZEALAND THIRD AND FOURTH FREEDOM AND UNITED STATES SIXTH FREEDOM.

TO RECAPITULATE, FOR OUR PART NEW ZEALAND HAS ALREADY AGREED THAT THE UNITED STATES DESIGNATED CARRIER MAY OFF THE ONE-TRANSFER FARES OVER LOS ANGELES (WHICH ENABLES AN AMERICAN CARRIER T.W.A.) BY INTERCHANGE TO CARRY IT ALL THE WAY TO LONDON) AND OVER HONG KONG. MOREOVER, PAN AM IS THE ONLY ELIGIBLE CARRIER TO SERVE SAN FRANCISCO USING THE LOW COST FARES OVER THE ENTIRE ROUTE.

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IN THESE CIRCUMSTANCES AND GIVEN THE EMPHASIS PLACED ON THIRD AND FOURTH FREEDOM TRAFFIC BY OUR AIR TRANSPORT AGREEMENT IT WOULD BE EVEN MORE DIFFICULT TO JUSTIFY TO OURSELVES AND TO THE BRITISH AUTHORITIES A MODIFICATION TO THE YE 180 FARE TO LONDON TO CATER FOR PAN AMS SCHEDULING OF ITS SERVICES. IN ANY EVENT IF THE MODIFICATIONS WERE GRANTED TO PAN AM IT WOULD NOT BE POSSIBLE TO PREVENT THE GRANTING OF SIMILAR CONCESSIONS TO OTHER CARRIERS INCLUDING OFF LINE CARRIERS NOT PRESENTLY ENTITLED TO PARTICIPATE WITH THE CONSEQUENT DILUTION OF TRAFFIC FOR THOSE FEW CARRIERS APPROVED TO USE THE FARES.

I HOPE THIS LETTER MAKES IT CLEAR TO YOU THAT NEW ZEALAND HAS NOT PLACED ANY IMPEDIMENT TO PAN AM'S ACCESS TO THIS SIXTH FREEDOM TRAFFIC, ALTHOUGH PERHAPS WE COULD HAVE OBJECTED TO THAT AIRLINE'S APPARENT RELIANCE ON SUCH CARRIAGE. FURTHERMORE THAT AIRLINE HAS THE ABILITY AT ANY STAGE TO AMEND OR INCREASE ITS SCHEDULES AND SO GAIN EVEN GREATER ACCESS.

WITH KIND REGARDS

4. COMMENT: THE PAPERS PREPARED FOR SUBMISSION TO THE CAB ARE REFERRED TO IN PARAGRAPH SIX OF THE LETTER. THEY ARE DESIGNED TO ESTABLISH CONCLUSIVELY THAT AIR NEW ZEALAND'S SERVICES TO AND FROM THE U.S. ARE "FIRMLY BASED" ON NZ'S THIRD AND FOURTH FREEDOM TRAFFIC. THE PURPOSE OF EMPHASIZING THIS POINT IS TO REFUTE THAT GNZ HAS INTERPRETED THE JUNE 28 LETTER AS ARGUING, NAMELY "THAT PAN AM HAS AN ABSOLUTE RIGHT TO EQUAL (REPEAT EQUAL) PARTICIPATION WITH AIR NEW ZEALAND" IN NZ 3RD AND 4TH FREEDOM BUT U.S. 6TH FREEDOM TRAFFIC. THE POSITION TAKEN IN THE SECRETARY FOR TRANSPORT'S LETTER DATED JUNE 17 (REPORTED IN WELLINGTON'S 2216) ACKNOWLEDGED THAT PAN AM IS "ENTITLED" TO 5TH AND 6TH FREEDOM TRAFFIC UNDER THE US-NZ AIR TRANSPORT AGREEMENT BUT DID NOT GO SO FAR AS TO SAY ENTITLED TO EQUAL PARTICIPATION. AS WAS OBSERVED IN WELLINGTON'S 2216 EVEN ACKNOWLEDGING THAT PAN AM WAS ENTITLED TO 5TH AND 6TH FREEDOM TRAFFIC HAS NOT BEEN UP TO THE TIME OF THAT LETTER CONCEDED BY GNZ DURING THE RECENT GNZ-PAN AM FARE CONTROVERSY. THE BASIC ISSUE IN THE CURRENT CONTROVERSY THEN STILL APPEARS TO

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REVOLVE AROUND THE DIFFERENT POSITIONS TAKEN BY USG AND GNZ ON

THE EXTENT TO WHICH THE US-NZ AIR TRANSPORT AGREEMENT ENTITLED  
PAN AM TO SHARE (EQUALLY) WITH AIR NEW ZEALAND (ANZ) NEW ZEALAND  
3RD AND 4TH FREEDOM BUT US 6TH FREEDOM TRAFFIC AS AN IMPORTANT  
PART OF PAN AM'S US-NZ SERVICE.  
SELDEN

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
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**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 23 AUG 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
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**Disposition Approved on Date:**  
**Disposition Authority:** coburnhl  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
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**Disposition Remarks:**  
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